

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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STEVEN SCAGGS, et al.,

Plaintiffs,

- against -

**ORDER**

06-CV-799 (RRM) (WDW)

NEW YORK STATE DEPARTMENT OF  
EDUCATION, et al.,

Defendants.

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**MAUSKOPF, United States District Judge.**

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, Defendants request that the following Plaintiffs be dismissed from this action for failure to prosecute:

Natara Bland by parents Jawanda and Norwood Bland  
Charles Bartlett by mother and natural guardian Pamela Bartlett  
Marcus Bartlett by mother and natural guardian Pamela Bartlett  
Edwin Perry by mother and natural guardian Pamela Bartlett  
Sean Duford by mother and natural guardian Yimmsegen Duford  
Kiara Duford by mother and natural guardian Yimmsegen Duford  
Craig Scott, Jr. by mother and natural guardian Tawanna Scott  
Emillie Hill by mother and natural guardian Eugenia Woods  
Juan Rosa, Jr. by mother and natural guardian Eugenia Woods

Docs. 192, 212. On June 17 and July 19, 2010, the Honorable William D. Wall, United States Magistrate Judge, issued Report and Recommendations ("R&Rs") recommending that these Plaintiffs be dismissed from this action for failure to prosecute.<sup>1</sup> Docs. 201, 215. The R&Rs also notified the parties that any objections to the recommendations must be made within fourteen days

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<sup>1</sup> Judge Wall states that "*all* plaintiffs were warned that 'failure to comply with discovery without good cause, including appearance at properly noticed depositions, will result in a recommendation to Judge Mauskopf that the claims of the non-complying plaintiffs be dismissed for failure to prosecute.'" Doc. 215 (emphasis in original). Despite the Court's warning, Plaintiffs Natara Bland, Charles Bartlett, Marcus Bartlett, Sean Duford, Kiara Duford, Craig Scott, Jr., and Edwin Perry failed to appear for their properly noticed depositions. With respect to Plaintiffs Emillie Hill and Juan Rosa, Jr., Judge Wall explains that their mother and natural guardian, Eugenia Woods appeared briefly for Emillie Hill's deposition but left before the proceeding concluded and stated on the record that she was not willing to complete her deposition or produce her son, Juan Rosa, Jr., for his scheduled deposition. Ms. Woods has also refused to schedule a time to complete her testimony and has refused to discuss the status of her case with counsel.

and the consequences of failing to timely object. To date, neither party has filed objections to the R&Rs.

If clear notice has been given of the consequences of failure to object, as here, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). Upon a review of the record, this Court concludes that there is no clear error on the face of the record. Therefore, the Court adopts both R&Rs in full.

## **CONCLUSION**

Accordingly, this action is dismissed with prejudice as to (1) Natara Bland by her parents Jawanda and Norwood Bland; (2) Charles Bartlett by mother and natural guardian Pamela Bartlett; (3) Marcus Bartlett by mother and natural guardian Pamela Bartlett; (4) Edwin Perry by mother and natural guardian Pamela Bartlett; (5) Sean Duford by mother and natural guardian Yimmsegen Duford; (6) Kiara Duford by mother and natural guardian Yimmsegen Duford; (7) Craig Scott, Jr. by mother and natural guardian Tawanna Scott; (8) Emillie Hill by mother and natural guardian Eugenia Woods; and (9) Juan Rosa, Jr. by mother and natural guardian Eugenia Woods. The Clerk of Court shall terminate these Plaintiffs.

SO ORDERED.

Dated: Brooklyn, New York  
August 9, 2010

s/RRM

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ROSLYNN R. MAUSKOPF  
United States District Judge